

CHAPTER 884

An act to amend Section 1 of, and to add Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 to, Chapter 687 of the Statutes of 1935, relating to tidelands and submerged lands.

[Approved by Governor September 18, 1974 Filed with
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The people of the State of California do enact as follows:

SECTION 1. Section 1 of Chapter 687 of the Statutes of 1935 is amended to read:

Section 1. There is hereby granted to the County of Santa Cruz and to its successors all right, title and interest of the State of California, held by said state by virtue of its sovereignty, in and to all those tidelands and submerged lands in the present County of Santa Cruz, and more particularly bounded and described as follows, to wit: All tidelands and submerged lands in Monterey Bay fronting the village of Capitola in said county, situated east of a prolongation of the easterly line of Forty-ninth Avenue, produced southerly, and west of a prolongation of the westerly line of Central Avenue, produced southeasterly; to be forever held by said County of Santa Cruz in trust for the uses and purposes and upon the expressed conditions following, to wit:

(a) That said lands shall be used by said county for the establishment, improvement and conduct of the harbor, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures and appliances necessary or convenient for the promotion of commerce, navigation and fisheries, and for the establishment and maintenance of bathhouses and bathing facilities and boathouses necessary or convenient for the inhabitants of said county, and said county shall not at any time grant, convey, give or alien said lands, or any part

thereof, to any individual, firm or corporation for any purpose whatever; provided, however, that said County of Santa Cruz may grant franchises thereon for wharves, docks, piers, slips, quays, bathhouses and bathing facilities, boathouses and any other public uses and purposes, and may lease said lands, or any part thereof, for any of said uses or purposes hereinabove enumerated, for any purposes consistent with the trust upon which said lands are held by the State of California, and with the requirements of commerce or navigation of said harbor, to persons, firms or corporations for a period not exceeding 50 years; provided, however, that said county may have the right to renew such lease or leases for the further term not exceeding 25 years, or to terminate the same upon such terms, reservations and conditions as may be stipulated in such lease or leases.

Nothing contained in this subdivision (a) shall be deemed to affect the validity or term of any franchise previously granted by the County of Santa Cruz under Article 1 (commencing at Section 6001), Chapter 1, Division 3 of the Public Utilities Code, and any such franchise shall be effective with respect to said land when title thereto passes to said county hereunder.

Every such lease shall provide for the payment of rentals to the County of Santa Cruz, which said rentals shall be either at an agreed figure, or shall be arrived at in such manner as may be mutually agreed upon, and provided for in said lease or leases.

Said leases shall also provide that at no time during their term, shall the said County of Santa Cruz be required to make any improvements on or for the benefit of the lease lands. Every lease so executed shall reserve to the board of supervisors and to the people of the County of Santa Cruz the right and privilege by ordinance duly adopted, to terminate, change or modify such lease or leases on such terms, reservations and conditions as may be stipulated in such lease or leases.

(b) That said harbor shall be improved by said county without expense to the State of California, and shall always remain a public harbor for all purposes of commerce and navigation, and the State of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays and other improvements constructed on said land or any part thereof for any vessel or other watercraft or railroad owned and operated by the State of California.

(c) There is hereby reserved, however, in the people of the State of California the absolute right to fish in all the waters of said harbor, with the right of convenient access to said waters over said land for said purpose.

(d) There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said lands, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said lands.

(e) The lands herein described are granted subject to the express

reservation and condition that the state may at any time in the future use said lands or any portion thereof for highway purposes without compensation to the county, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements have been placed upon the property taken by the state for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements taken or the damages to such interests. If the county, its successors or assigns, or any person, firm or public or private corporation claiming under it, has filled any tide or submerged lands and such lands are taken by the state for highway purposes, the state shall reimburse the county, its successors or assigns, or any person, firm or public or private corporation claiming under it, for expenditures incurred in filling such lands.

(f) The provisions of this section shall not be construed to prevent the County of Santa Cruz from conveying to the City of Capitola prior to January 1, 1985, the tidelands and submerged lands referred to in this section, subject to the trusts and conditions and for the uses and purposes expressed herein; provided, that the board of supervisors has found and determined that such a conveyance would be in the public interest; and provided, that notification of such conveyance be given to, and acknowledged by, the State Lands Commission prior to the effective date of such conveyance.

SEC. 2. Section 2 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 2. The county shall establish a separate tidelands trust fund or funds in such manner as may be approved by the State Lands Commission and the county shall deposit in the fund or funds all moneys received directly from, or indirectly attributable to, the granted lands in the county. An annual statement of financial condition and operations, to conform with such requirements as the State Lands Commission may prescribe, shall be submitted to the State Lands Commission each year by the county on or before September 30th of each year for the preceding fiscal year.

SEC. 3. Section 3 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 3. Notwithstanding any other provision of law to the contrary, the county, acting either alone or jointly with another local or state agency, may use revenues accruing from or out of the use of the granted lands for any or all of the following purposes; provided, that they comply with the terms of the trust and are matters of statewide, as distinguished from local or purely private, interest and benefit:

(a) For the establishment, improvement and conduct of harbors, and for the construction, reconstruction, repair, maintenance, and operation of wharves, docks, piers, slips, quays, and all other works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient, for the promotion and accommodation of commerce and navigation.

(b) For all commercial and industrial uses and purposes, and the construction, reconstruction, repair, and maintenance of commercial and industrial buildings, plants, and facilities.

(c) For the establishment, improvement, and conduct of airport and heliport or aviation facilities, including but not limited to approach, takeoff and clear zones in connection with airport runways, and for the construction, reconstruction, repair, maintenance, and operation of terminal buildings, runways, roadways, aprons, taxiways, parking areas, and all other works, buildings, facilities, utilities, structures, and appliances incidental, necessary or convenient for the promotion and accommodation of air commerce and air navigation.

(d) For the construction, reconstruction, repair, and maintenance of highways, streets, roadways, bridges, belt line railroads, parking facilities, power, telephone, telegraph or cable lines or landings, water and gas pipelines, and all other transportation and utility facilities or betterments incidental, necessary, or convenient for the promotion and accommodation of any of the uses set forth in this section.

(e) For the construction, reconstruction, repair, maintenance, and operation of public buildings, public assembly and meeting places, convention centers, public parks, public playgrounds, public bathhouses and public bathing facilities, public recreation and public fishing piers, public recreation facilities, including, but not limited to, public golf courses, and for all works, buildings, facilities, utilities, structures, and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses.

(f) For the establishment, improvement, and conduct of small boat harbors, marinas, aquatic playgrounds, and similar recreational facilities, and for the construction, reconstruction, repair, maintenance, and operation of all works, buildings, facilities, utilities, structures, and appliances incidental, necessary, or convenient for the promotion and accommodation of any of such uses, including, but not limited to, snackbars, cafes, cocktail lounges, restaurants, motels, hotels, and other forms of transient living accommodations open to the public, launching ramps and hoists, storage sheds, boat repair facilities with cranes and marine ways, administration buildings, public restrooms, bait and tackle shops, chandleries, boat sales establishments, service stations and fuel docks, yacht club buildings, parking areas, roadways, pedestrian ways and landscaped areas, and other compatible commercial and recreational activities and uses.

(g) For the protection of wildlife habitats, the improvement, protection, and conservation of the wildlife and fish resources and the ecology of the area, the providing of open-space areas and areas for recreational use with open access to the public, the enhancement of the aesthetic appearance of the granted lands and the area, control of dredging or filling of the granted lands, or both, and prevention of pollution of the granted lands.

(h) For the promotion, by advertising and such other means as

may be reasonable and appropriate, of maximum public use of the granted lands or to encourage private investment in development of the granted lands for the highest and best use in the public interest.

(i) For any other uses or purposes of statewide, as distinguished from purely local or private, interest and benefit which are in fulfillment of those trust uses and purposes described in this act.

(j) For the acquisition of property and the rendition of services reasonably necessary to the carrying out of the uses and purposes described in this section, including the amortization or debt service of any capital improvement funding program which is consistent with the terms and conditions set forth in this act.

SEC. 4. Section 4 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 4. Such revenues may be deposited in one or more reserve funds for use in accordance with the terms and conditions set forth in this act.

SEC. 5. Section 5 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 5. As to the accumulation and expenditure of revenues for any single capital improvement on the granted lands involving an amount in excess of two hundred fifty thousand dollars (\$250,000) in the aggregate, the county shall file with the State Lands Commission a detailed description of such capital improvement not less than 90 days prior to the time of any disbursement therefor or in connection therewith, excepting preliminary planning. The State Lands Commission may, within 90 days after the time of such filing, determine and notify the county that such capital improvement is not in the statewide interest and benefit or is not authorized by the provisions of Section 3 of this act. The State Lands Commission may request the opinion of the Attorney General on the matter, and if it does so, a copy of such opinion shall be delivered to the county with the notice of its determination. In the event the State Lands Commission notifies the county that such capital improvement is not authorized, the county shall not disburse any revenue for, or in connection with, such capital improvement, unless and until it is determined to be authorized by a final order or judgment of a court of competent jurisdiction. The county is authorized to bring suit against the state for the purpose of securing such an order or adjudication, which suit shall have priority over all other civil matters. Service shall be made upon the Executive Officer of the State Lands Commission and the Attorney General, and the Attorney General shall defend the state in such suit. If judgment be given against the state in such suit, no costs shall be recovered against it.

SEC. 6. Section 6 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 6. At the end of every third fiscal year, beginning June 30, 1976, that portion of the county tideland trust revenues in excess of two hundred fifty thousand dollars (\$250,000) remaining after

current and accrued operating costs and expenditures directly related to the operation or maintenance of tideland trust activities have been made, shall be deemed excess revenues; provided, that any funds deposited in a reserve fund for future capital expenditures or any funds used to retire bond issues for the improvement or operation of the granted lands shall not be deemed excess revenue. Capital improvements of the granted lands for purposes authorized by this act may be considered as expenditures for the purpose of determining net revenues; provided, however, that, if made after January 1, 1975, they may be so considered only if made in accordance with Section 5 of this act.

The excess revenue, as determined pursuant to Section 5 of this act shall be divided as follows: 85 percent to the General Fund in the State Treasury, and 15 percent to the county to be deposited in the trust fund and used for any purpose authorized by Section 3 of this act.

SEC. 7. Section 7 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 7. The State Lands Commission, at the request of the county, shall grant an extension of time, not to exceed 30 calendar days, for filing any report or statement required by this act which was not filed due to mistake or inadvertence.

SEC. 8. Section 8 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 8. In the event that the county fails or refuses to file with the State Lands Commission any report, statement, or document required by any provision of this act within the time period specified by this act, or any extension period granted pursuant to this act, or fails or refuses to carry out the terms of this act, the Attorney General shall, upon the request of the State Lands Commission, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any improvements to, or assets situated upon, the granted lands or derived therefrom. The State Lands Commission shall notify the Chief Clerk of the Assembly and the Secretary of the Senate within 30 days of the occurrence of such failure or refusal and of actions taken as a result thereof.

SEC. 9. Section 9 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 9. The State Lands Commission shall, from time to time, recommend to the Legislature such amendments as it may deem necessary in the terms and conditions of this act.

SEC. 10. Section 10 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 10. The State Lands Commission shall, from time to time, institute a formal inquiry to determine that the terms and conditions of this act, and amendments thereto, have been complied with, and that all other applicable provisions of law concerning these specific granted lands are being complied with in good faith.

SEC. 11. Section 11 is added to Chapter 687 of the Statutes of

1935, to read:

Sec. 11. The State Lands Commission shall, on or before December 31st of each year, report to the Chief Clerk of the Assembly and to the Secretary of the Senate, the full details of any transaction or condition reported to the commission pursuant to this act which it deems in probable conflict with the requirements of this act, or with any other provision of law.

SEC. 12. Section 12 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 12. The Legislature reserves the right to amend, modify, or revoke, in whole or in part, the tidelands and submerged lands granted and conveyed in trust pursuant to this act; provided, that the state shall thereupon assume and be bound by all lawful transactions and obligations related to such lands entered into or created by the county during its holding of such lands.

SEC. 13. Section 13 is added to Chapter 687 of the Statutes of 1935, to read:

Sec. 13. The Attorney General, on request by resolution of either house of the Legislature, or upon formal request of the State Lands Commission made only after a noticed public hearing at which the grantee has been given an opportunity to fully express any disagreement with the commission's findings or to describe any extenuating circumstances causing the violation, shall bring an action in the Superior Court in the County of Santa Cruz to declare that the grant under which the county holds such tidelands and submerged lands is revoked for gross and willful violation of the provisions of this act or other legislative enactment, or to compel compliance with the terms and conditions of the grant and any other provision of law including, but not limited to, this act.

SEC. 14. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of the city for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.